

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0295P**

**Individual Income Tax**

**Calendar Year 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration** – Late payment penalty

**Authority:** IC 6-8.1-10-2; 45 IAC 15-11-2

Taxpayer protests the penalty assessed for the late filing of its return.

**STATEMENT OF FACTS**

Taxpayer, in a letter dated June 26, 2000 protested the late filing penalty because it had not previously owed Indiana tax and its Federal Return was under a valid extension. Taxpayer filed its IT-40PNR return on June 12, 1999 with a balance of tax due in the amount of \$5,541. On October 14, 1999, the Department issued its proposed assessment for penalty and interest.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer had reasonable cause in failing to timely remit tax due.

Taxpayer made no payments until after the due date of the return. Taxpayer states it was not aware of any tax liability owed to the State of Indiana as of April 15, 1999, and, upon completion of its tax returns in early June of 1999, paid an Indiana tax liability of \$5,541.

IC 6-8.1-10-2 (a) states:

If a person fails to file a return for any of the listed taxes or fails to pay

the full amount of tax shown on his return on or before the due date for the return or payment, incurs, upon examination by the department, a deficiency which is due to negligence, or fails to timely remit any tax held in trust for the state, the person is subject to a penalty.

IC 6-8.1-6-1(c) states:

If the Internal Revenue Service allows a person an extension on his federal Income tax return, the corresponding due dates for the person's Indiana income Tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

The property that generated the Indiana income was sold in 1997. Taxpayer should have remitted at least ninety percent (90%) of the tax due by April 15, 1998. Communication problems between the taxpayer and the partnership is not reasonable cause for failing to pay the tax due timely.

### **FINDING**

Taxpayer's protest is denied.